THE HON'BLE SRI JUSTICE S.ANANDA REDDY

Writ Petition No.20550 of 2001

02.08.2007

Between

P.Jesudas

…Petitioner

And

The Principal, Sainik School, Korukonda, Vizianagaram District and another.

…Respondents

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

Writ Petition No.20550 of 2001

ORDER:

This writ petition is filed seeking a writ of Mandamus directing the respondents to collect fee from the petitioner according to Sainik Societies Rules and Regulations (for short 'the Rules') as circulated during the entrance examination notification for the year 1999-2000.

It is stated that the petitioner is working as a teacher (Assistant Master) in the first respondent-school and that he had three children. It is also stated that two of his elder children were admitted into the first respondent-school, while with reference to third child's admission, as there was some restriction in the Rules, the petitioner applied for

relaxation and the same was granted by the authorities concerned. Accordingly, the third child was admitted into the first respondent-school. Subsequently, the petitioner was given a communication stating that he has to pay normal fee payable by the day scholars with reference to his third child i.e., at the rate of Rs.22,000/- per annum as tuition fee. Aggrieved by the same, the present writ petition is filed.

The learned counsel for the petitioner contended that upto the year 1999-2000, there was no stipulation as to the payment of fee at the normal rates that are applicable to day scholars for the children of the staff working in the first respondent-school. Therefore, on the application of the petitioner, relaxation for admission of his third child was granted, subject to the condition that his third child should pass the entrance test. Accordingly, after qualifying in the entrance examination, his third child was admitted into the first respondent-school. However, on the premise that subsequently it was decided by the administration of the first respondent-school that in respect of third child of the staff, full tuition fee payable by day scholars is payable which was notified for admission for the subsequent year. In fact, basing on the circular, dated 20.11.1999, the petitioner was directed to pay the fee at the rates applicable to the day scholars who are not

children of the staff. The petitioner has cited various similar such cases with reference to one Prabhakar Rao (Accountant) and O.Lakshman Rao (Nursing Attendant), where even with reference to their third child, no such fee as applicable to normal students who are outsiders was collected. Therefore, it is contended that the said action of the respondents is illegal and without jurisdiction, apart from discrimination.

A counter affidavit is filed on behalf of the respondents disputing and denying the allegations made by the petitioner, including the instances given by the petitioner. It is stated that at no point of time three children of a staff were in the first respondent-school and therefore, the question of collecting normal fee in respect of the third child would not arise. In the counter, it is also stated that the policy of collecting normal fee was implemented in August, 1999 and since no third child of the staff referred to by the petitioner were in the first respondent-school by the date of new policy, the question of collecting full tuition fee from those persons does not arise. The learned counsel also brought to the notice of this Court the Rules which govern the admissions and also states that there is a total prohibition as to the admission of third child of a staff member and further the fee prescribed under clause

3.07 is revisable and the revised fee from time to time is payable by the students. Therefore, he sought for dismissal of the writ petition.

The issue to be considered in this writ petition is whether the petitioner is entitled to seek a direction to the respondents to collect normal fee as applicable to the students of the staff i.e., at concessional rate, with reference to his third child who was admitted into the first respondent-school, and not at a higher rate.

As per the Rules of the first respondent-school, only two children of the staff are eligible for admission at a time at concessional tuition fee. Insofar as the third child is concerned, there is a total prohibition by way of policy on admission. However, as the first respondent-school is established in a remote place where no other schools are available for admission, the Rules were relaxed and the third child of the staff was given admission and concessional fee is being collected.

Similarly, when it came to the case of the petitioner, the petitioner made an application requesting relaxation of the Rules for admission of his third child and the same was granted subject to passing of entrance examination. Subsequent to the admission of the third child of the petitioner, the Board of Governors of the first respondent-school took a policy decision with reference to collection

of tuition fee for the third child of a staff that the fee payable shall be normal fee payable by a day scholar i.e., at the rate of Rs.22,000/- per annum, perhaps from the academic year 2000-2001. Since such a policy decision was taken subsequent to starting of the academic year 1999-2000 and since the petitioner's third child was got admitted before said policy decision was taken, the petitioner seeks a direction that with reference to his third child, only concessional fee has to be collected and not normal fee payable by a day scholar. In fact, it is stated that one of the children of the petitioner has even left the first respondent-school after 2001-2002. Therefore, according to the petitioner, the dispute is only with reference overlapping period. Since the management of the first respondent-school has taken a policy decision which is only after the third child of the petitioner was admitted, the policy that was taken in the month of August, 1999 which was applied for the academic year 2000-01 cannot be made applicable retrospectively with reference to the children already got admitted prior to the same. Such a policy can be made applicable prospectively and if so, the respondents are not entitled to collect the normal tuition fee from the petitioner with reference to his third child. Further in any case, as one of the children of the

petitioner has already left the first respondent-school during 2001-2002, it would not be proper and just to collect any higher fee from the petitioner.

Under the above circumstances, the respondents are not entitled to collect normal fee as applicable to day scholars with reference to the third child of the petitioner.

With the above observations and direction, the writ petition is disposed of. No costs.

02.08.2007

VGB